

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3
4 BENCH SESSION
5 (PUBLIC UTILITY)

6
7 Springfield, Illinois
8 Wednesday, March 23, 2011
9

10 Met, pursuant to notice, at 10:30 a.m. in the
11 Audiovisual Teleconference Room, Second Floor, Leland
12 Building, 527 East Capitol Avenue, Springfield,
13 Illinois.

14 PRESENT:

15 MR. DOUGLAS P. SCOTT, Acting Chairman

16 MS. ERIN M. O'CONNELL-DIAZ, Commissioner
17 (Via teleconference)

18 MR. SHERMAN J. ELLIOTT, Commissioner

19 MR. JOHN T. COLGAN, Acting Commissioner
20

21 SULLIVAN REPORTING COMPANY, by
22 Carla J. Boehl, Reporter
 CSR #084-002710

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PROCEEDINGS

ACTING CHAIRMAN SCOTT: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield are Commissioner Elliott and Acting Commissioner Colgan. With us in Chicago is Commissioner O'Connell-Diaz. I am Acting Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of the Illinois Administrative Code this is the time we allow members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Bench Session. According to the Chief Clerk's Office we have no requests to speak at today's Bench Session.

(The Transportation portion of the proceedings was held at this time and is contained in a separate transcript.)

1 ACTING CHAIRMAN SCOTT: Turning now to the
2 Public Utility Agenda, we will start with approval of
3 minutes from the February 23 Special Open Meeting. I
4 understand amendments have been forwarded. Is there
5 a motion to amend the minutes?

6 COMMISSIONER ELLIOTT: So moved.

7 ACTING CHAIRMAN SCOTT: Is there a second?

8 ACTING COMMISSIONER COLGAN: Second.

9 ACTING CHAIRMAN SCOTT: It's been moved and
10 seconded. All in favor say aye.

11 COMMISSIONERS: Aye.

12 ACTING CHAIRMAN SCOTT: Any opposed say nay.

13 (No response.)

14 The vote is four to nothing amending
15 the minutes for February 23.

16 Is there now a motion to approve the
17 minutes as amended?

18 COMMISSIONER ELLIOTT: So moved.

19 ACTING COMMISSIONER COLGAN: Second.

20 ACTING CHAIRMAN SCOTT: It's been moved and
21 seconded. All in favor say aye.

22 COMMISSIONERS: Aye.

1 and/or charges against GDF SUEZ Energy Resources.

2 This item will be held today.

3 Item E-5 is 10-0489. This is Sergio
4 Cristan's complaint as to billing and/or charges
5 against ComEd. ALJ Sainsot recommends that the
6 Commission dismiss this docket without prejudice for
7 want of prosecution.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the docket is dismissed.

13 Items E-6 through E-8 (11-0026,
14 11-0040, 11-0052) can be taken together. These items
15 concern Applications for the Licensure of Agents,
16 Brokers and Consultants under Section 16-115C of the
17 Public Utilities Act. In each case ALJ Yoder
18 recommends that the Commission enter an Order
19 granting the requested Certificate.

20 Is there any discussion?

21 (No response.)

22 Any objections?

1 (No response.)

2 Hearing none, the Orders are entered
3 and the Certificates are granted.

4 Item E-9 is Docket 11-0108. This is
5 Texas Retail Energy's Application for a Certificate
6 of Service Authority to operate as an alternative
7 retail electric supplier. ALJ Tapia recommends that
8 the Commission enter an Order granting the
9 Application.

10 Is there any discussion?

11 (No response.)

12 Any objections?

13 (No response.)

14 Hearing none, the Order is entered and
15 the Certificate is granted.

16 Item E-10 is Docket Number 11-0112.
17 This is Ambit Northeast's Application for a
18 Certificate of Service Authority to operate as a
19 retail electric supplier and request for the
20 confidential treatment of financial information
21 attached to its application. ALJ Tapia recommends
22 that the Commission enter an Order granting the

1 Application for a Certificate and granting the
2 company's request for confidential treatment for a
3 period of two years.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Order is entered.

9 The Certificate is granted and the request for
10 confidential treatment is granted.

11 Items E-11 through E-19 (11-0185,
12 11-0191, 11-0195, 11-0196, 11-0198, 11-0199, 11-0200,
13 11-0203, 11-0206) can be taken together. All of
14 these items concern Petitions to protect against the
15 disclosure of confidential and/or proprietary
16 information or otherwise seeking confidential and/or
17 proprietary treatment for reports filed with the
18 Commission. In each case the ALJ recommends entry of
19 an Order granting the requested relief for a period
20 of two years.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Orders are entered
4 and the requested relief is granted for two years.

5 Item E-20 is Docket Number 11-0192.

6 This is Ameren's petition for the Commission to
7 declare the provision of electric power and energy to
8 retail customers with peak demands between 150
9 kilowatts and 400 kilowatts to be a competitive
10 service under Section 16-113 of the Public Utilities
11 Act. ALJ Jones recommends that the Commission enter
12 an Order granting the Petition.

13 Is there any discussion?

14 (No response.)

15 Any objections?

16 (No response.)

17 Hearing none, the Order is entered.

18 Turning to Gas, Items G-1 and G-2 can
19 be taken together. These items are Petitions by
20 Peoples and North Shore Gas for increases in the
21 rates for natural gas service. In order to determine
22 the reasonableness of the proposed increase in rates,

1 Staff recommends the filings be suspended and set for
2 hearing through the entry of Suspension Orders.

3 Is there any discussion?

4 (No response.)

5 Any objections?

6 (No response.)

7 Hearing none, the Suspension Orders
8 are entered.

9 Item G-3 is a petition by Ameren for
10 an increase in its rates for natural gas delivery
11 service. In order to determine the reasonableness of
12 the proposed increase in rates, Staff recommends the
13 filing be suspended and set for hearing through the
14 entry of a Suspension Order.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Suspension Order is
20 entered.

21 Item G-4 is Docket Number 08-0597.

22 This is Renna Thomas' complaint as to billing and/or

1 charges against Peoples Gas. ALJ Baker recommends
2 that the Commission enter an Order denying the
3 complaint.

4 Is there any discussion?

5 (No response.)

6 Any objections?

7 (No response.)

8 Hearing none, the Order is entered and
9 the complaint is denied.

10 Items G-5 through G-7 (11-0184,
11 11-0186, 11-0204) can be taken together. These items
12 concern Petitions to protect against the disclosure
13 of confidential and/or proprietary information in the
14 petitioners' reports. In each case ALJ Albers
15 recommends entry of an Order granting the requested
16 relief.

17 Is there any discussion?

18 (No response.)

19 Any objections?

20 (No response.)

21 Hearing none, the Orders are entered
22 and the requested protection is granted.

1 Moving on to Telecommunications, Item
2 T-1 is Docket Number 10-0727. This is FreedomVOICE
3 Systems' Application for a Certificate of
4 Interexchange Authority to Operate as a Reseller of
5 Telecommunications Services throughout Illinois. ALJ
6 Teague recommends that the Commission enter an Order
7 approving the Application.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 Item T-2 is Docket Number 11-0005.

14 This is WorldNet Communications Services' Application
15 for a Certificate to become a Telecommunications
16 Carrier. ALJ Teague recommends that the Commission
17 enter an Order granting the requested authority.

18 Is there any discussion?

19 (No response.)

20 Any objections?

21 (No response.)

22 Hearing none, the Order is entered.

1 Item T-3 is Docket Number 10-0415.

2 This is Ann Terrell's complaint as to billing and/or

3 charges against Illinois Bell Telephone Company. ALJ

4 Riley recommends that the Commission enter an Order

5 granting the complaint as to local non-toll service

6 and denying the complaint as to all other services.

7 Is there any discussion?

8 (No response.)

9 Any objections?

10 (No response.)

11 Hearing none, the Order is entered and

12 the complaint is in part granted and in part denied.

13 Item T-4 is Docket Number 09-0382.

14 This item concerns proposed amendments to Part 732 of

15 Title 83 of the Administrative Code concerning the

16 statutory exemption of Illinois Telephone

17 Cooperatives from requirements concerning customer

18 credits. ALJ Benn recommends that the Commission

19 enter an Order adopting the amendments with an

20 effective date of April 1, 2011.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Order is entered and

4 the amendments to Part 732 are adopted.

5 Item T-5 is Docket Number 10-0453.

6 This is Cricket Communications' Application for

7 Designation as an Eligible Telecommunications

8 Carrier. ALJ Riley recommends entry of an Interim

9 Order granting Cricket the requested ETC designation

10 for the Denali Service Area.

11 Is there any discussion?

12 (No response.)

13 Any objections?

14 (No response.)

15 Hearing none, the Interim Order is

16 entered.

17 Items T-6 through T-11 (11-0041,

18 11-0053, 11-0146, 11-0147, 11-0148, 11-0167) each

19 concern Petitions to protect against the disclosure

20 of confidential and/or proprietary information in the

21 petitioners' Annual Reports. In each case the ALJ

22 recommends entry of an Order granting the requested

1 protective treatment for a period of two years.

2 Is there any discussion?

3 (No response.)

4 Any objections?

5 (No response.)

6 Hearing none, the Orders are entered
7 and the protective treatment is granted.

8 Item T-12 is Docket Number 11-0193.

9 This is Illinois Bell Telephone Company's Petition to
10 protect against the disclosure of confidential and/or
11 proprietary information in its 2010 Interconnection
12 Report. ALJ Albers recommends that the Commission
13 enter an Order granting the requested relief for a
14 period of five years.

15 Is there any discussion?

16 (No response.)

17 Any objections?

18 (No response.)

19 Hearing none, the Order is entered and
20 the requested relief is granted for a period of five
21 years.

22 We have one Water and Sewer item to

1 address today. Item W-1 is Docket Number 11-0209.
2 This is Sundale's Information Statement filed
3 pursuant to Section 6-102(d) of the Public Utilities
4 Act in connection with the financing of indebtedness
5 of up to \$78,194.34. ALJ Tapia recommends that the
6 Commission enter an Order granting the requested
7 relief.

8 Is there any discussion?

9 (No response.)

10 Any objections?

11 (No response.)

12 Hearing none, the Order is entered.

13 We have two miscellaneous items for
14 today. Item M-1 concerns a Resolution supporting 811
15 to call before you dig to locate utility lines. Is
16 there someone from Staff to brief us on this
17 resolution? Step up to the plate.

18 MR. RILEY: I am Bill Riley, Manager of
19 J.U.L.I.E. Enforcement here at the Commission.

20 And pretty much every year what we do
21 around the start of the excavation season is, number
22 one, we seek -- I am trying to look for the word --

1 from the Governor, a resolution or a proclamation
2 from the Governor regarding April as safe digging
3 month, and the other thing we do is to try to get the
4 same thing from the Commission to support 811 and
5 also to name April as safe digging month in Illinois.

6 ACTING CHAIRMAN SCOTT: Is there any discussion
7 on the Resolution?

8 COMMISSIONER O'CONNELL-DIAZ: Chairman, I just
9 would like to thank Staff for again preparing this.
10 This is an important document and especially as we
11 head into the -- for the professional folks that are
12 out there, the excavators that are out doing work and
13 also for our at-home weekend warriors, to know that
14 they need to call J.U.L.I.E. before they start doing
15 some home improvement projects. They can disrupt
16 their whole neighborhood and in fact cause some
17 really bad problems if they don't do that.

18 So I am pleased to see this. I hope
19 that we will have a space dedicated on our website
20 for this, so that we have that information out there
21 for the public. So thank you very much, Bill, and I
22 know your group is on top of this.

1 MR. RILEY: Thank you.

2 ACTING CHAIRMAN SCOTT: Thank you,
3 Commissioner. I absolutely second those comments.
4 So thank you.

5 Any other discussion?

6 (No response.)

7 Any objections to adopting the
8 Resolution?

9 (No response.)

10 Hearing no objection, the Resolution
11 on 811 is adopted. Thank you very much.

12 MR. RILEY: Thank you.

13 ACTING CHAIRMAN SCOTT: Item M-2 is Docket
14 Number 09-0511. This item concerns a Petition for
15 Rulemaking to amend Part 200 of Title 83 of the
16 Administrative Code to redefine the Administrative
17 Law Judge's role in Interlocutory Review. ALJ Dolan
18 recommends that the Commission enter an Order
19 adopting the proposed amendment with an effective
20 date of April 1, 2011.

21 Is there any discussion?

22 (No response.)

1 Any objections?

2 (No response.)

3 Hearing none, the Order is entered and
4 the amendment is adopted.

5 We have a few Petitions for Rehearing
6 to address today. Item PR-1 is Docket Number
7 10-0138. This is ComEd's proposal to establish Rider
8 PORCB and to revise other related tariffs. Before us
9 today are Petitions for Rehearing filed by the Retail
10 Electric Supply Association and the Illinois
11 Competitive Energy Association. ALJ Sainsot
12 recommends that the Commission grant rehearing for
13 the purpose of determining the correct uncollectible
14 charge to impose.

15 Is there any discussion on the
16 Petitions for Rehearing?

17 (No response.)

18 Is there a motion to grant rehearing
19 consistent with the ALJ's recommendation?

20 COMMISSIONER ELLIOTT: So moved.

21 ACTING CHAIRMAN SCOTT: Is there a second?

22 ACTING COMMISSIONER COLGAN: Second.

1 ACTING CHAIRMAN SCOTT: It's been moved and
2 seconded. All in favor say aye.

3 COMMISSIONERS: Aye.

4 ACTING CHAIRMAN SCOTT: Any opposed?

5 (No response.)

6 The vote is four to nothing, and the
7 rehearing will be granted for the purpose of
8 determining the correct uncollectible charge to
9 impose.

10 Item PR-2 is Docket Number 10-0286.
11 This item is Patricia Callion's complaint as to
12 billing and/or charges against ComEd. This complaint
13 was initially dismissed for want of prosecution and
14 since then the complainant has filed a Petition for
15 Rehearing on the decision to dismiss the complaint.
16 ALJ Sainsot recommends that the Commission deny the
17 Petition for Rehearing.

18 Is there any discussion?

19 If I could, could I ask ALJ Sainsot to
20 -- very good.

21 Thank you. My question is whether,
22 since the person has now come back in and asked for

1 rehearing and we were denying -- the purpose of the
2 denial is for want of prosecution, does it make more
3 sense procedurally just to grant the rehearing, keep
4 the same docket numbers and proceed that way, as
5 opposed to having the person who apparently is now
6 re-interested in the case or has come back into the
7 case, having them re-file and start over?

8 JUDGE SAINSOT: Well, I guess the difference
9 between the two, frankly, would only be that if you
10 granted rehearing, she would have five months
11 pursuant to the statute, as opposed to re-filing her
12 complaint because the dismissal was without
13 prejudice, which would give her a whole other year.

14 Other than that, it's pretty much the
15 same. I would point out that she filed her complaint
16 on April 9, 2010, and she's done nothing about it.
17 So just because she files a Petition for Rehearing
18 doesn't necessarily mean that she is going to
19 actively pursue the matter.

20 ACTING CHAIRMAN SCOTT: Well, understood. I
21 was just trying to see procedurally if one way or
22 another made more sense for us as a body to proceed.

1 JUDGE SAINSOT: Well, procedurally it really
2 doesn't make that much difference except for the five
3 months versus the 12 months.

4 COMMISSIONER O'CONNELL-DIAZ: And, Judge
5 Sainsot, there have been five different opportunities
6 for her to come forward, so that we have been ready
7 at the Commission to hear her complaint, as has been
8 the Respondent having filed their answer to her
9 complaint.

10 JUDGE SAINSOT: Respondent filed a Motion to
11 Dismiss.

12 COMMISSIONER O'CONNELL-DIAZ: Right.

13 JUDGE SAINSOT: Yeah, she managed to get -- at
14 least four of those were by agreement with counsel
15 for the other side. So she certainly had ample
16 opportunity.

17 COMMISSIONER O'CONNELL-DIAZ: And during the
18 time that this is pending, the amount that she is
19 contesting -- she has not had to pay those amounts,
20 correct?

21 JUDGE SAINSOT: She has -- well, the amount
22 that she is contesting she doesn't have to pay. But

1 it also appears from the bills that she attached to
2 the Petition for Rehearing that she hasn't paid a
3 bill in a long time. It is like \$5500.

4 ACTING CHAIRMAN SCOTT: Mr. Colgan?

5 ACTING COMMISSIONER COLGAN: Well, I was just
6 going to say that it looked like, you know, her claim
7 is that she didn't understand that -- she thought she
8 had to have an attorney and, you know, it is kind of
9 troubling that it got extended five different times.

10 But I guess I was wondering, it seems
11 like a case of a customer who is pretty uninformed in
12 terms of what the internal working processes are here
13 at the Commission. I am wondering, if we denied the
14 rehearing, if she actually understands that she can
15 re-file the case or would just, you know, be
16 exasperated and move on.

17 JUDGE SAINOT: She's been in constant contact
18 with the Clerk's Office.

19 COMMISSIONER O'CONNELL-DIAZ: Also, I think if
20 you look at the transcript from the hearing that
21 initially was had, I think Judge Sainot explained to
22 her what the procedures were and, you know, how she

1 would go forward with her complaint. I think she has
2 been well-advised as to what our rules are from the
3 Clerk's Office as well as the Judge on the day that
4 she showed up.

5 JUDGE SAINSOT: I would also point out that,
6 while she says that she thought she had to have an
7 attorney, at the first status hearing that we had
8 where settlement negotiations were conducted on an
9 informal basis she appeared without an attorney. So
10 I don't really understand how she could say that.

11 ACTING COMMISSIONER COLGAN: Okay. So your
12 opinion is that she would understand that she could
13 re-file her complaint if she so desired to do so.

14 JUDGE SAINSOT: Right. My opinion is that she
15 would call the Clerk's Office and say, "What are my
16 options," yes, and the Clerk's Office is very, very
17 thorough with pro se litigants.

18 ACTING CHAIRMAN SCOTT: Is there a motion
19 then -- your recommendation then is to deny the
20 request for rehearing?

21 JUDGE SAINSOT: Yes, sir.

22 ACTING CHAIRMAN SCOTT: Is there a motion to

1 that effect?

2 COMMISSIONER O'CONNELL-DIAZ: So moved.

3 ACTING CHAIRMAN SCOTT: Is there a second?

4 COMMISSIONER ELLIOTT: Second.

5 ACTING CHAIRMAN SCOTT: Moved and seconded to

6 deny the Petition for Rehearing. All in favor say

7 aye.

8 COMMISSIONERS: Aye.

9 ACTING CHAIRMAN SCOTT: Opposed say nay.

10 (No response.)

11 The vote is four to nothing and the

12 Petition for Rehearing is denied.

13 Judge Wallace, are there any other

14 matters to come before the Commission today?

15 JUDGE WALLACE: No, that's it.

16 ACTING CHAIRMAN SCOTT: Thank you, ALJ Sainsot,

17 also. Hearing none, this meeting stands adjourned.

18 MEETING ADJOURNED

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